

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA :
v. : **MAGISTRATE NO. 22-1576**
YAASEEN BIVENS :

GOVERNMENT'S MOTION FOR PRETRIAL DETENTION

The government, by and through its attorneys, Jacqueline C. Romero, United States Attorney for the Eastern District of Pennsylvania, Robert E. Eckert, Assistant United States Attorney, and David Osborne, Special Assistant United States Attorney for the District submits this Motion for Pretrial Detention to assist the Court in its ruling on the government's request that the defendant, Yaaseen Bivens, be detained pending trial.

The government moves for pretrial detention because the defendant is both a danger to the community and a flight risk. In this case, the defendant, while on pre-trial release and awaiting sentencing following a felony conviction for aggravated assault, purchased and possessed ammunition in Philadelphia. The defendant committed this crime notwithstanding the fact that he was convicted of aggravated assault in Philadelphia County on August 1, 2022.

On September 27, 2022, four children were shot and a fifth was killed as they walked off the football field at Roxborough High School in Philadelphia. Through investigation, the Philadelphia Police Department (PPD) Homicide Unit and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) identified a gray Chevrolet Impala as being connected to the homicide. When investigators searched the Impala they recovered a receipt from a store in South Philadelphia that sells firearms and ammunition. Both the receipt and video from the store revealed that the defendant purchased two boxes of .40 caliber ammunition four days prior to the homicide at Roxborough High School. In addition, on October 11, 2022, the PPD

Homicide Unit obtained an arrest warrant charging the defendant with murder, aggravated assault and related offenses arising from his involvement in the shooting at Roxborough High School.

The defendant's decision to commit this crime, the possession of ammunition by a felon, notwithstanding the fact that he was on bail in another case where his criminal conduct resulted in the death of an innocent person makes it clear that he is both a danger to the community and a flight risk. There is no condition or combination of conditions that will reasonably assure the defendant's appearance as required or the safety of the community. Accordingly, the government moves pursuant to 18 U.S.C. § 3142(e) and (f) for a detention hearing and pretrial detention of this defendant.

I. FACTS

In support of this motion, the government makes the following representations and proposed findings of fact:

A. Probable Cause and The Evidence in this Case

1. On October 7, 2022, the Honorable Carol Sandra Moore Wells, Magistrate Judge sitting in the Eastern District of Pennsylvania approved a criminal complaint charging the defendant with the unlawful possession of ammunition by a felon, in violation of 18 U.S.C. § 922(g)(1). Accordingly, there is probable cause to believe that the defendant committed the offense described above.

2. The evidence in this case is strong, and the likelihood of conviction is great.

a. In connection with the investigation into the homicide that occurred at

Roxborough High School, PPD obtained video from September 27, 2022, that depicts the

suspects arriving on 1800 N. Lambert Street in a gray Chevy Impala with dark tinted windows. The Chevy Impala has distinct damage to the rear driver side bumper (caved in), distinct damage to the passenger side front door quarter panel at the front door jam and a distinct sticker on the trunk just to the right of the "Impala" factory decals. Through investigation, PPD and ATF determined that the suspects in the homicide arrived in this Chevy Impala, then got into a Ford Explorer, and then drove to Roxborough High School to commit the homicide.

b. On October 3, 2022, the Chevy Impala was located on the highway at 3212 N. 25th Street bearing Pennsylvania temporary registration: 3805-640. The vehicle had the same damage to the driver's side rear bumper, passenger side front quarter panel and distinct sticker on the rear trunk. The damage matches the suspect vehicle.

c. The Impala was towed to the PPD impound lot where a search warrant was executed upon it. Numerous items of evidentiary value were recovered. Of note in this case, detectives recovered receipts from the Philadelphia Training Academy, a Federal Firearms Licensee Located at 831-833 Ellsworth St., Philadelphia, PA, dated September 23, 2022, for two boxes of "40S&W RANGE AMMO" for a total cost, with tax of \$90.72. A second receipt for one "UPLULA UNIV SPD LDR 9MM-45ACP" for a total cost of \$42.12. The second item is a "speed loader" an item used to assist in loading ammunition into pistol magazines. Additionally, these receipts show the ammunition and speed loader were sold to customer number "147863 Yaseen Kuzell Bivins" on invoice numbers "114336" and "114337."

d. On October 5, 2022, law enforcement agents traveled to the Philadelphia Training Academy and interviewed the Store Manager, regarding receipt number: 114336. When asked, the manager related that every transaction whether paid in cash or with a credit card is recorded

via a receipt. Additionally, the manager related that each customer is assigned a unique identification number, that is specific to them. The customer identification number is recorded at the top of the receipt and includes the customer's name. The manager reviewed receipt number: 114336 and noted the customer was a male by the name of Yaaseen Kuzell Bivins, with an assigned customer identification number: 147863.

e. The manager further stated that on September 23, 2022, at 3:09 p.m., Bivins purchased two (2) boxes of .40 caliber, Ammo Inc., ammunition. The total price of the transaction was \$90.72. Bivins paid \$100.00 cash and received \$9.28 in change. At the time of the transaction, Bivins provided Pennsylvania Photo Identification Card: 32720480, with a verified address of 2958 N. Bambrey Street, Philadelphia, PA 19132. Following the transaction, Bivins left the store with the two (2) boxes of ammunition. Investigators then recovered surveillance video depicting Bivens purchasing two boxes of ammunition at Philadelphia Training Academy on September 23, 2022.

f. In reviewing this footage, of the purchase of this ammunition of September 23, 2022, two African American males enter the store via the front entrance. The first male is a heavy-set African American male, wearing a black t-shirt, black Under Armor pants, and white/blue/gray, New Balance sneakers. The second male is an African American male, wearing a black, hooded sweatshirt, white t-shirt, black New Balance pants, and black/white/gray sneakers. Both males proceed to the front counter where a brief interaction occurs with Philadelphia Training Academy employees. Following the interaction, the males proceed to the register. Prior to the transaction, the second male exits the store and waits for the first male outside. The first male then pays for two boxes of ammunition via cash and exits the store. Both males then walk

together to a gray, Chevrolet Impala bearing Pennsylvania temporary registration: 3805-640 and leave the area.

g. On October 5, 2022, investigators conducted a query through PENNDOT of the name Yaaseen Kuzell Bivins, DOB: 04/15/2001. The query returned a Pennsylvania Photo Identification Card Number: 32720480, with a verified address of 2958 N. Bambrey Street, Philadelphia, PA 19132. The photo identification card picture matched the appearance of the first male, who purchased the ammunition. The photo identification card was issued on June 29, 2021, and expires on June 30, 2025. The photo identification card number is the same as the photo identification card presented to the Philadelphia Training Academy, referenced above.

h. Investigators then queried Bivins' criminal history which revealed that he had been previously convicted of a felony punishable by more than one year imprisonment. On August 1, 2022, in the Philadelphia County Court of Common Pleas (Docket No. CP-51-CR-0000114-2021), Bivins was convicted of Aggravated Assault by Vehicle in violation of Pa. 75 § 3732.1 and Accidents Involving Death or Injury while Not Licensed, in violation Pa. Stat. 75 § 3742.1, both third-degree felonies in Pennsylvania. Bivins is currently scheduled to be sentenced on November 4, 2022. Investigators then reviewed transcripts from the proceedings and noted that during a colloquy between Bivens and the Judge, Bivens acknowledged that he was aware of the punishment range for his felony charges and discussed them with his attorney. Thus, Bivens knew of his status as a felon following his conviction for aggravated assault.

i. Investigators contacted Ammo Inc. regarding the origin and manufacture of the 100 rounds of Ammo Inc. brand .40 caliber ammunition purchased by Bivins. Based on the investigation conducted on the 100 rounds of Ammo Inc. the ammunition was manufactured

outside of the Commonwealth of Pennsylvania, specifically in the state of Wisconsin, and therefore, by virtue of the ammunition's purchase and possession in the Commonwealth of Pennsylvania, the ammunition traveled in interstate commerce.

B. Maximum and Mandatory Minimum Penalty

The total maximum penalty for a violation of 18 U.S.C. § 922(g)(1) is 15 years' imprisonment, a \$250,000 fine, 3 years of supervised release, and a \$100 special assessment.

C. Criminal History

The defendant was convicted, following a bench trial, of aggravated assault by vehicle and accidents involving death or injury while not licensed, on August 1, 2022. Thus, the defendant committed the charged offense while he was on post-trial release in the case noted above. Also, on October 11, 2022, PPD Homicide obtained an arrest warrant charging the defendant with murder, aggravated assault, and related offenses for the incident that occurred at Roxborough High School. Because he committed the charged federal offense while on post-trial release, this demonstrates that the defendant does not have any regard for following the laws of the United States, the Commonwealth of Pennsylvania, or restrictions placed on him by a court.

D. Community Ties/Employment/Likelihood of Flight

While the defendant has resided in Philadelphia area for much of his life, his ties to the area have not stopped him from possessing ammunition in this case despite his recent conviction for aggravated assault. There is no reason for the Court to believe that his community ties would prevent him from committing additional crimes in the future or assure his appearance in court.

II. CONCLUSION

For the reasons set forth above, it is clear that no condition or combination of conditions will reasonably assure the presence of the defendant as required and/or the safety of the community.

The government respectfully requests that this Court grant the government's Motion for Defendant's Pretrial Detention.

Respectfully submitted,

Jacqueline C. Romero
United States Attorney

/s Robert E. Eckert
Robert E. Eckert
Assistant United States Attorney

David Osborne
Special Assistant United States Attorney

Dated: October 13, 2022

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PRETRIAL DETENTION ORDER

AND NOW, this day of October, 2022, after an evidentiary hearing and argument of counsel for the government and the defendant, the Court finds that this case is appropriate for detention under Title 18, United States Code, Section 3142(e)(1) because:

- a. the government has proved by a preponderance of the evidence that no condition or combination of conditions will reasonably assure the appearance of the defendant as required; and
- b. the government has proved by clear and convincing evidence that no condition or combination of conditions will reasonably assure the safety of other persons and the community, as required by Title 18, United States Code, Section 3142(e).

The Court makes the following findings of fact:

1. There is probable cause to believe that the defendant has violated Title 18, United States Code, Section 922(g)(1).
2. The evidence in this case is strong, and the likelihood of conviction is great.
 - a. The investigation establishes that in the Eastern District of Pennsylvania, on September 23, 2022, the defendant knowingly possessed ammunition that travelled in

interstate commerce, notwithstanding his prior conviction for aggravated assault by vehicle and accidents involving death or injury while not licensed in Pennsylvania, crimes that are punishable by more than one year in prison.

3. The total maximum penalty the defendant faces is: 15 years' imprisonment, a \$250,000 fine, three years of supervised release, and a \$100 special assessment.

4. The strength and nature of the case against the defendant and the substantial sentence the defendant faces if convicted establish that the defendant is a danger to the community and increases the high risk that the defendant will not appear as required by the Court.

Therefore, IT IS ORDERED that the defendant be committed to the custody of the Attorney General for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal; that the defendant be afforded reasonable opportunity for private consultation with counsel; and that, on order of a Court of the United States, or on request of an attorney for the government, the person in charge of the corrections facility in which the defendant is confined deliver the defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding.

BY THE COURT:

HONORABLE SCOTT W. REID
United States Magistrate Court Judge

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the Government's Motion for Pretrial Detention, and Proposed Order, was served via the Electronic Case Filing (ECF) system.

/s Robert E. Eckert
Robert E. Eckert
Assistant United States Attorney

Dated: October 13, 2022